REMARKS

Claims 8-23 are currently pending in the present application.

<u>Rejection under 35 U.S.C. § 103</u>

Claims 8-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Mead* (US 4,099,230). Applicant respectfully traverses such rejection.

According to MPEP § 2111.02, the preamble needs to be given effect of a limitation when it "breaths life and meaning into the claim" and is "essential to point out the invention defined by the claim." In Claim 15, the preamble recites "an assembler for processing structured assembly language." In Claim 22, the preamble recites "[a]n assembler ... for processing structured assembly language." Thus, the preambles in both Claims 15 and 22 are essential to point out the invention defined by the claim as an assembler and not simply a generic application software.

In Claims 8 and 23, the preambles recite "[a] computer program product ... for processing structured assembly language." Such recitation breaths life and meaning into the claims and puts the recitations of "in response to recognizing a SETUP_IF clause" and "in response to recognizing a ELSE_IF clause" in the body of the claims in context. Without the preamble, a reader may be able to speculate that the SETUP_IF and ELSE_IF clauses are related to a programming language but not sure which one. Thus, the preambles in Claims 8, 15 and 22-23 do not merely recite the purpose of a process because the body of those claims depends on its respective preamble for completeness. Incidentally, *Mead* does not teach or suggest "structured assembly language" at all.

Claim 8 (and similarly Claims 15 and 22-23) recites "a state machine having an IF state, an ELSE state, an END_IF state, an ELSE_IF state, and a SETUP_IF state." On page 5 of the Final Office Action, the Examiner states that the claimed SETUP_IF state is not disclosed by *Mead*, but then the Examiner asserts that the claimed SETUP_IF state is merely another reserved term related to a label created by a programmer. It is well-known in the art that each state within

a state machine is more than merely a label. The claimed state machine has five separate and distinctive states, namely, an IF state, an ELSE state, an END_IF state, an ELSE_IF state, and a SETUP_IF state. Thus, contrary to the characterization by the Examiner, the claimed SET_UP state is not a label merely created by a programmer.

Not only *Mead* does not teach or suggest the claimed SET_UP state, *Mead* also does not teach or suggest the claimed IF state, the claimed ELSE state, the claimed END_IF state, and the claimed ELSE_IF state because *Mead* does not teach or suggest a state machine at all. *Mead* simply discloses an IF instruction, an ELSE instruction, an END_IF instruction, and an ELSE_IF instruction.

Although Mead discloses various programming instructions or clauses, *Mead* does not teach or suggest the claimed SETUP_IF clause. As such, *Mead* does not teach or suggest the claimed step of "transitioning from said IF state or said ELSE_IF state to said SETUP_IF state, in response to recognizing a SETUP_IF clause" in Claims 8 and 15. Because the claimed invention recites novel features that are not found in *Mead*, the § 103 rejection is believed to be overcome.

CONCLUSION

Claims 8-23 are currently pending in the present application. For the reasons stated above, Applicant believes that independent Claims 8, 15 and 22-23 along with their respective dependent claims are in condition for allowance. The remaining prior art cited by the Examiner, but not relied upon, has been reviewed and is not believed to show or suggest the claimed invention.

No fee or extension of time is believed to be necessary; however, in the event that any additional fee or extension of time is required for the prosecution of this application, please charge it against IBM Deposit Account No. 09-0464.

Respectfully submitted,

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